

**Rhonda Hughey**  
District Clerk



Kaufman County

County Courthouse  
100 W. Mulberry St.  
Kaufman, Texas 75142  
**972-932-0279**

I, Rhonda Hughey, Clerk of the Court of Kaufman County, Texas, do

hereby certify that the foregoing are true and correct copies of the entire file in Cause 99184-422,

**Benjamin Temple vs Warren D. Clark and Carrier Corporation**, as the same appear from the  
originals on file in this office.

Witness my hand and seal of said Court at the City of Kaufman

on the 13<sup>th</sup> day of March, 2018.

Rhonda Hughey  
District Clerk  
Kaufman County, Texas

By

A handwritten signature in blue ink, reading "Michelle Lopez", is written over a horizontal line.

Michelle Lopez

**Rhonda Hughey**  
District Clerk



Kaufman County

County Courthouse  
100 W. Mulberry St.  
Kaufman, Texas 75142  
**972-932-0279**

I, Rhonda Hughey, Clerk of the District/County Court at Laws Court of Kaufman County, Texas, do

hereby certify that the foregoing are true and correct copies of the entire file in **Cause 99184-422**,

**Benjamin Temple vs Warren D. Clark and Crete Carrier Corporation**, as the same appear from the

originals on file in this office.

Witness my hand and seal of said Court at office in the City of Kaufman

on the 13<sup>th</sup> day of March, 2018.

Rhonda Hughey

District Clerk

Kaufman County, Texas

By   
Michelle Lopez

Filed: 2/12/2018 9:36 AM  
Rhonda Hughey,  
District Clerk  
Kaufman County, Texas  
Brandy Thomas

99184-422

CAUSE NO. \_\_\_\_\_

BENJAMIN TEMPLE	§	IN THE DISTRICT COURT OF
	§	
VS.	§	KAUFMAN COUNTY, TEXAS
	§	Kaufman County - 422nd District Court
WARREN D. CLARK AND	§	
CRETE CARRIER CORPORATION	§	_____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE:

COMES NOW, Plaintiff, BENJAMIN TEMPLE, complaining herein of Defendant WARREN D. CLARK and Defendant CRETE CARRIER CORPORATION, and, for cause of action, state:

**I.**

**DISCOVERY PLAN**

Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.

**II.**

**PARTIES**

Plaintiff reside in Mansfield, Tarrant County, Texas. Plaintiff can be identified by his driver's license number of XXXXX862 and his Social Security Number of XXX-XX-X205.

Defendant WARREN D. CLARK, individually and as an agent and employee of Defendant Crete Carrier Corporation, is an individual whom is a non-resident of Texas, whom resides in the State of Louisiana and whom may be served with process by serving the Chairman of the Texas Transportation Commission, **Mr. J. Bruce Bugg, Jr., at 125 East 11th Street in Austin, Texas 78701-2483**, Travis County, Texas, because Defendant was a party to a collision or accident while operating a motor vehicle in Texas. Chairman of the Texas Transportation Commission, Mr. J.

Bruce Bugg, Jr., may obtain service of process on Defendant, **Mr. Warren D. Clark at 411 Gulpha, #22 in West Monroe, Louisiana 71291.**

Defendant CRETE CARRIER CORPORATION is a company doing business in the State of Texas. Defendant can be served with process by serving its registered agent, **National Registered Agents, Inc. at 1999 Bryan Street, Suite 900 in Dallas, Texas 75201.**

### III.

Jurisdiction is proper in that the amount in controversy greatly exceeds the minimum jurisdictional requirements of this Court.

Pursuant to Section 15.001 et seq. of the Texas Civil Practice and Remedies Code, venue is proper in Kaufman County in that all or part of this cause of action accrued in Kaufman County, Texas.

### IV.

#### FACTUAL BACKGROUND

At all relative times mentioned herein, Defendant WARREN D. CLARK was in the course and scope of his employment with Defendant CRETE CARRIER CORPORATION, or was their agent over whom they exercised control. Therefore, under respondeat superior, Defendant CRETE CARRIER CORPORATION is liable for Defendant WARREN D. CLARK's actions and conduct. Plaintiff relies, in part, on the legal theory of respondeat superior for recovery against Defendant CRETE CARRIER CORPORATION.

On or about November 8, 2016, Plaintiff was operating his motor vehicle traveling east on I-20 in Kaufman County, Texas. Defendant WARREN D. CLARK was also traveling east on I-20, directly behind Plaintiff. Plaintiff slowed for traffic in front of him and Defendant collided with the



rear of Plaintiff's vehicle and pushing him into the center grassy median. The impact caused extensive damage to both vehicles and serious bodily injury to Plaintiff.

**V.**

**NEGLIGENCE OF DEFENDANT WARREN D. CLARK**

At and immediately before the occurrence in question, Defendant WARREN D. CLARK was guilty of acts and/or omissions which constituted negligence. These acts and/or omissions include, but are not limited to, the following:

1. Failing to keep a proper lookout;
2. Failing to properly apply the brakes;
3. Failure to control his speed;
4. Driver inattention; and
5. Faulty evasive action.

Each of the above-mentioned acts or omissions constituted negligence which were the proximate cause or causes of the occurrence in question and the resulting damages sustained by the Plaintiff herein.

**VI.**

**NEGLIGENCE OF DEFENDANT CRETE CARRIER CORPORATION**

At and immediately before the occurrence in question, Defendant CRETE CARRIER CORPORATION was guilty of acts and/or omissions which constituted negligence. These acts and/or omissions include, but are not limited to, the following:

1. Negligent entrustment of a motor vehicle to someone whom the owner knew or should have known was unlicensed, incompetent or reckless in his driving abilities;
2. Negligently hiring Defendant Thomas Michael Reid;

3. Negligently failing to terminate Defendant Thomas Michael Reid;
4. Negligently failing to institute and maintain reasonable driving training and safety programs for employees in a same or similar position as Defendant Thomas Michael Reid; and
5. Negligently failing to supervise Defendant Thomas Michael Reid.

Each of the above-mentioned acts or omissions constituted negligence which were the proximate cause or causes of the occurrence in question and the resulting damages sustained by the Plaintiff herein.

## **VII.**

### **INJURIES**

Plaintiff sustained the following serious bodily injuries as a direct and proximate result of the Defendants' negligence:

- a. Neck;
- b. Shoulders; and
- c. Back.

## **VIII.**

### **DAMAGES**

As a direct and proximate result of the negligence of Defendants as alleged herein, Plaintiff suffered the following damages:

- a. Past medical expenses in the amount in excess of the jurisdictional limits of the Court;
- b. Future medical expenses in excess of the minimum jurisdictional limits of the Court;
- c. Past and future physical disability in excess of the minimum jurisdictional limits of the Court;

- d. Past and future pain and suffering and mental anguish in excess of the minimum jurisdictional limits of the Court;
- e. Past and future disfigurement in excess of the minimum jurisdictional limits of the Court; and
- f. Loss of earning capacity in the past and future.

**IX.**

**CLAIM FOR RELIEF**

Plaintiff asks the jury to be fair to Plaintiff, to award Plaintiff all Plaintiff's medical expenses in the past and future as stated above. Additionally, regarding Plaintiff's non-economic claim, including disfigurement, pain and suffering, mental anguish, impairment and loss of consortium, and costs of Court, case expenses, pre-judgment and post-judgment interest, Plaintiff asks that the jury be fair in awarding these damages. Plaintiff relies on the jury's good conscience and requests the jury award Plaintiff a fair amount for Plaintiff's damages. Plaintiff monetary relief over \$1,000,000.00.

**X.**

**NOTICE OF INTENT**

Plaintiff hereby gives actual notice to Defendant that any and all documents produced by Defendant may be used against the Defendant at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents pursuant to Rule 193.7, Texas Rules of Civil Procedure.

**PRAYER**

**FOR THE REASONS STATED**, Plaintiff prays that Defendants be cited in terms of law to appear and answer herein and that Plaintiff, upon final trial of this cause, have judgment against

Defendants, jointly and severally, in an amount in excess of the minimum jurisdictional limits of this Court, for costs of Court, pre-judgment and post-judgment interest at the highest legal rate, for the recovery of actual damages, and for such other and further relief, both special and general, to which Plaintiff may be entitled, in that of law and equity.

Respectfully Submitted,

LONCAR & ASSOCIATES



BRANDON RAMSEY

State Bar No. 24027761

[bramsey@brianloncar.com](mailto:bramsey@brianloncar.com)

[glmoseley@hotmail.com](mailto:glmoseley@hotmail.com) (use for correspondence)

DONALD L. "CHIP" PARKER, II

State Bar No. 24027590

[cparker@brianloncar.com](mailto:cparker@brianloncar.com)

223 East Charnwood

Tyler, Texas 75701

903-509-2255

903-509-2983 - fax

ATTORNEYS FOR PLAINTIFF



## CIVIL CASE INFORMATION SHEET

Kaufman County - 422nd District Court

99184-422

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

Filed: 2/12/2018 9:36 AM

Rhonda Hughey,

District Clerk

Kaufman County, Texas

STYLED Benjamin Temple vs. Warren D. Clark and Crete Carrier Corporation

Brandy Thomas

(e.g., John Smith v. All American Insurance Co, In re Mary Ann Jones, In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

<b>1. Contact information for person completing case information sheet:</b> Name: _____ Email: _____ Brandon Ramsey _____ bramsey@brianloncar.com _____ Address: _____ Telephone: _____ 223 E. Charnwood St. _____ (903) 509-2255 _____ City/State/Zip: _____ Fax: _____ Tyler TX 75701 _____ (903) 509-2983 _____ Signature: _____ State Bar No: _____ /s/ Brandon Ramsey _____ 24027761 _____ [Attach additional page as necessary to list all parties]		<b>Names of parties in case:</b> Plaintiff(s)/Petitioner(s): _____ Benjamin Temple _____ Defendant(s)/Respondent(s): _____ Warren D. Clark and _____ Crete Carrier Corporation _____ [Attach additional page as necessary to list all parties]		<b>Person or entity completing sheet is:</b> <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____	
<b>2. Indicate case type, or identify the most important issue in the case (select only 1):</b>					
<b>Civil</b>			<b>Family Law</b>		
<b>Contract</b> <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<b>Injury or Damage</b> <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <b>Malpractice</b> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <b>Product Liability</b> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<b>Real Property</b> <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ <b>Related to Criminal Matters</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<b>Marriage Relationship</b> <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <b>Divorce</b> <input type="checkbox"/> With Children <input type="checkbox"/> No Children <b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<b>Post-judgment Actions (non-Title IV-D)</b> <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order <b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
<b>Employment</b> <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<b>Other Civil</b> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____				
<b>Tax</b> <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax: _____	<b>Probate &amp; Mental Health</b> <b>Probate Wills/Intestate Administration</b> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____				
<b>3. Indicate procedure or remedy, if applicable (may select more than 1):</b>					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
<b>4. Indicate damages sought (do not select if it is a family law case):</b>					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input checked="" type="checkbox"/> Over \$1,000,000					



PERSONAL CITATION  
THE STATE OF TEXAS

CAUSE # 99184-422

NOTICE TO THE RESPONDENT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO:

Warren D. Clark by serving the Chairman of the Texas Transportation Commission  
Mr. J. Bruce Bragg  
125 East 11<sup>th</sup> Street  
Austin, TX 78704-2483

Respondent Greetings:

YOU ARE HEREBY COMMANDED to appear before the Honorable 422nd District Court, Kaufman County, Texas, by filing a written answer to the **Plaintiff's Original Petition** of the Plaintiff at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days from the date of service hereof, a copy of which accompanies the Citation in Cause Number **99184-422**, styled Benjamin Temple Vs. Warren Clark, Crete Carrier Corporation, filed in said court on February 12, 2018. WITNESS, RHONDA HUGHEY, District Clerk of Kaufman County, Texas.

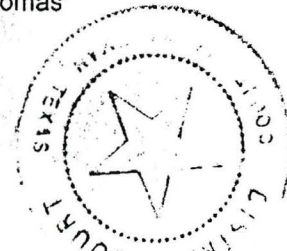
Issued and given under my hand and seal of said Court at Kaufman, Texas, on this the 12th day of February, 2018.

RHONDA HUGHEY  
DISTRICT CLERK  
100 W Mulberry St  
Kaufman, TX 75142

By Brandy Thomas Deputy  
Brandy Thomas

Attorney for Plaintiff:  
Brandon Ramsey  
223 East Charnwood  
Tyler TX 75701  
903-509-2255

### OFFICER'S RETURN



Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, o'clock \_\_\_\_\_ m., and executed in \_\_\_\_\_ County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____

And not executed as to the defendant(s), \_\_\_\_\_

The diligence used in finding said defendant(s) being: \_\_\_\_\_  
and the cause or failure to execute this process is: \_\_\_\_\_  
and the information received as to the whereabouts of said defendant being \_\_\_\_\_

#### FEES:

Serving Petition and Copy \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

\_\_\_\_\_, Officer  
\_\_\_\_\_, County, Texas  
By: \_\_\_\_\_, Deputy

Affiant

**COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.**

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

" My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_  
(First, Middle, Last)

\_\_\_\_\_  
(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Declarant/Authorized Process Server

\_\_\_\_\_  
(Id # & expiration of certification)

PERSONAL CITATION  
THE STATE OF TEXAS

CAUSE # 99184-422

NOTICE TO THE RESPONDENT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO:

**Crete Carrier Corporation by serving its registered agent  
National Registered Agents, Inc.  
1999 Bryan Street Suite 900  
Dallas TX 75201**

Respondent Greetings:

YOU ARE HEREBY COMMANDED to appear before the Honorable 422nd District Court, Kaufman County, Texas, by filing a written answer to the **Plaintiff's Original Petition** of the Plaintiff at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days from the date of service hereof, a copy of which accompanies the Citation in Cause Number **99184-422**, styled Benjamin Temple Vs. Warren Clark, Crete Carrier Corporation, filed in said court on February 12, 2018. WITNESS, RHONDA HUGHEY, District Clerk of Kaufman County, Texas.

Issued and given under my hand and seal of said Court at Kaufman, Texas, on this the 12th day of February, 2018.

RHONDA HUGHEY  
DISTRICT CLERK  
100 W Mulberry St  
Kaufman, TX 75142

By Brandy Thomas Deputy  
Brandy Thomas

Attorney for Plaintiff:  
Brandon Ramsey  
223 East Charnwood  
Tyler TX 75701  
903-509-2255

**OFFICER'S RETURN**



Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, o'clock \_\_\_\_\_ m., and executed in \_\_\_\_\_ County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____

And not executed as to the defendant(s), \_\_\_\_\_

The diligence used in finding said defendant(s) being: \_\_\_\_\_  
and the cause or failure to execute this process is: \_\_\_\_\_  
and the information received as to the whereabouts of said defendant being \_\_\_\_\_

**FEES:**

Serving Petition and Copy \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

\_\_\_\_\_, Officer  
\_\_\_\_\_, County, Texas  
By: \_\_\_\_\_, Deputy

Affiant

**COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.**

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

" My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_  
(First, Middle, Last)

\_\_\_\_\_  
(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Declarant/Authorized Process Server

\_\_\_\_\_  
(Id # & expiration of certification)



Filed: 2/26/2018 4:28 PM  
 Rhonda Hughey,  
 District Clerk  
 Kaufman County, Texas  
 Susan Cook Mendoza

PERSONAL CITATION  
 THE STATE OF TEXAS

CAUSE # 99184-422

NOTICE TO THE RESPONDENT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO:

Warren D. Clark by serving the Chairman of the Texas Transportation Commission  
 Mr. J. Bruce Bragg  
 125 East 11<sup>th</sup> Street  
 Austin, TX 78704-2483

Respondent Greetings:

YOU ARE HEREBY COMMANDED to appear before the Honorable 422nd District Court, Kaufman County, Texas, by filing a written answer to the **Plaintiff's Original Petition** of the Plaintiff at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days from the date of service hereof, a copy of which accompanies the Citation in Cause Number **99184-422**, styled Benjamin Temple Vs. Warren Clark, Crete Carrier Corporation, filed in said court on February 12, 2018. WITNESS, RHONDA HUGHEY, District Clerk of Kaufman County, Texas.

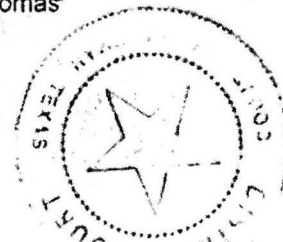
Issued and given under my hand and seal of said Court at Kaufman, Texas, on this the 12th day of February, 2018.

RHONDA HUGHEY  
 DISTRICT CLERK  
 100 W Mulberry St  
 Kaufman, TX 75142

By Brandy Thomas Deputy  
 Brandy Thomas

Attorney for Plaintiff:  
 Brandon Ramsey  
 223 East Charnwood  
 Tyler TX 75701  
 903-509-2255

### OFFICER'S RETURN



Came to hand on the 19<sup>th</sup> day of February, 2018, at 1:00 o'clock P.m., and executed in Travis County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit: by Certified mail,

Name	Date/Time	Place, Course and Distance from Courthouse
Warren Clark by mailing	2-22-18 12:00 PM	125 E. 11 <sup>th</sup> St. Austin TX 78701

to Texas Transportation Commission

And not executed as to the defendant(s), \_\_\_\_\_

The diligence used in finding said defendant(s) being: \_\_\_\_\_

and the cause or failure to execute this process is: \_\_\_\_\_

and the information received as to the whereabouts of said defendant being \_\_\_\_\_

### FEES:

Serving Petition and Copy \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

\_\_\_\_\_, Officer  
 \_\_\_\_\_, County, Texas

By: \_\_\_\_\_, Deputy

Affiant



**COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.**

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

" My name is Pamela Daniels, my date of birth is 5-26-57, and my address is  
(First, Middle, Last)  
10358 CR 3101 Winona TX 75792  
(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in Smith County, State of TX, on the 24<sup>th</sup> day of  
February 2018.

Pamela Daniels  
Declarant/Authorized Process Server  
4241 9-30-19  
(Id # & expiration of certification)

Filed: 2/26/2018 4:28 PM  
Rhonda Hughey,  
District Clerk  
Kaufman County, Texas  
Susan Cook Mendoza

PERSONAL CITATION  
THE STATE OF TEXAS

CAUSE # 99184-422

NOTICE TO THE RESPONDENT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO:

Crete Carrier Corporation by serving its registered agent  
National Registered Agents, Inc.  
1999 Bryan Street Suite 900  
Dallas TX 75201

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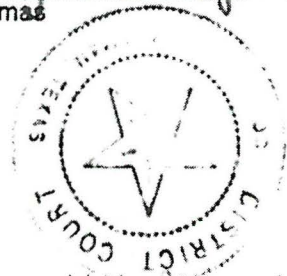
Issued and given under my hand and seal of said Court at Kaufman, Texas, on this the 12th day of February, 2018.

RHONDA HUGHEY  
DISTRICT CLERK  
100 W Mulberry St  
Kaufman, TX 75142

By Brandy Thomas Deputy  
Brandy Thomas

Attorney for Plaintiff:  
Brandon Ramsey  
223 East Charnwood  
Tyler TX 75701  
903-509-2255

### OFFICER'S RETURN



Came to hand on the 12th day of February, 2018, at 10 o'clock AM, and executed in Dallas County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit: by Certified mail

Name	Date/Time	Place, Course and Distance from Courthouse
Crete Carrier Corporation	2-16-2018 12:00 PM	1999 Bryan St. #900 Dallas TX 75201

by serving its registered agent, National Registered Agents, Inc.  
And not executed as to the defendant(s), \_\_\_\_\_

The diligence used in finding said defendant(s) being: \_\_\_\_\_  
and the cause or failure to execute this process is: \_\_\_\_\_  
and the information received as to the whereabouts of said defendant being: \_\_\_\_\_

### FEES:

Serving Petition and Copy \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

\_\_\_\_\_, Officer  
\_\_\_\_\_, County, Texas  
By: \_\_\_\_\_, Deputy

Affiant



**COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.**

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

" My name is Pamela Daniels, my date of birth is 5-26-1957, and my address is  
(First, Middle, Last)

10358 CR 3101 Winona TX 75792  
(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in Smith County, State of TX, on the 20<sup>th</sup> day of  
February 2018.

Pamela Daniels  
Declarant/Authorized Process Server  
4241 9-30-19  
(Id # & expiration of certification)

7015 1730 0000 4962 3286

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

DALLAS, TX 75201

Certified Mail Fee	\$3.45
Extra Services & Fees (check box, add fee to postage)	\$2.75
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$1.21
Total Postage and Fees	\$7.41

To: Crete Carrier Nat'l Regis  
Street and Apt. No., or PO Box No. 1999 Bryan #900  
City, State, ZIP+4® Dallas TX 75201

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse

re: Benjamin Temple

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
Crete Carrier Corp  
% National Registered Agents Inc  
1999 Bryan St. #900  
Dallas TX 75201

2. Article Number (Transfer from service label)  
7015 1730 0000 4962 3286

PS Form 3811, April 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
☒ [Signature] ☐ Agent  
☐ Addressee

B. Received by (Printed Name)  
Chris Wells

C. Date of Delivery  
FEB 16 2018

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Insured Mail	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	

Domestic Return Receipt

Filed: 3/12/2018 9:53 AM  
Rhonda Hughey,  
District Clerk  
Kaufman County, Texas  
Rhonda Hughey

**CAUSE NO. 99184-422**

<b>BENJAMIN TEMPLE</b>	§	<b>IN THE DISTRICT COURT OF</b>
<i>Plaintiff,</i>	§	
	§	
<b>VS.</b>	§	<b>KAUFMAN COUNTY, TEXAS</b>
	§	
<b>WARREN D. CLARK AND</b>	§	
<b>CRETE CARRIER CORPORATION</b>	§	
<i>Defendants.</i>	§	<b>422<sup>nd</sup> JUDICIAL DISTRICT</b>

**DEFENDANT CRETE CARRIER CORPORATION'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES CRETE CARRIER CORPORATION, Defendant in the above-entitled and numbered cause, and makes and files this its Original Answer, and for such, would respectfully show the Court as follows:

**I.**  
**GENERAL DENIAL**

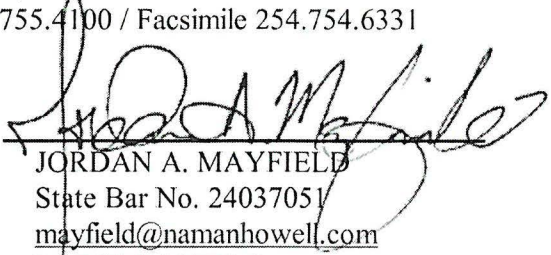
1.01 Defendant generally denies the material allegations contained in Plaintiff's Original Petition in accordance with the provisions of Rule 92 of the Texas Rules of Civil Procedure.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff takes nothing against it; that Defendant has judgment against Plaintiff for costs of court; and that Defendant receives such other and further relief, general and special, at law and in equity, to which it may be justly entitled.

Respectfully submitted,

NAMAN, HOWELL, SMITH & LEE, PLLC  
400 Austin Avenue, 8<sup>th</sup> Floor  
P. O. Box 1470  
Waco, Texas 76703-1470  
254.755.4100 / Facsimile 254.754.6331

BY:



JORDAN A. MAYFIELD  
State Bar No. 24037051  
[mayfield@namanhowell.com](mailto:mayfield@namanhowell.com)  
ROBERT LITTLE  
State Bar No. 24050940  
[little@namanhowell.com](mailto:little@namanhowell.com)

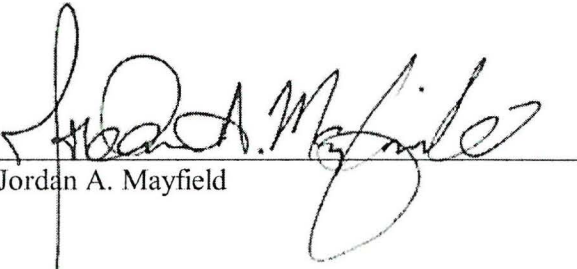
ATTORNEYS FOR  
CRETE CARRIER CORPORATION



**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing instrument was served upon the following attorney of record by E-Service on this 12<sup>th</sup> day of March, 2018:

Brandon Ramsey  
LONCAR & ASSOCIATES  
223 East Charnwood  
Tyler, Texas 75701  
[bramsey@brianloncar.com](mailto:bramsey@brianloncar.com)



Jordan A. Mayfield

Filed: 3/12/2018 11:21 AM  
Rhonda Hughey,  
District Clerk  
Kaufman County, Texas  
Rhonda Hughey

CAUSE NO. 99184-422

BENJAMIN TEMPLE

*Plaintiff,*

VS.

WARREN D. CLARK AND  
CRETE CARRIER CORPORATION

*Defendants.*

§  
§  
§  
§  
§  
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§  
§  
§

IN THE DISTRICT COURT OF

KAUFMAN COUNTY, TEXAS

422<sup>nd</sup> JUDICIAL DISTRICT

---

DEFENDANT'S NOTICE OF FILING NOTICE TO REMOVE CASE  
TO UNITED STATES DISTRICT COURT

---

TO THE HONORABLE COURT:

Notice is hereby given that Defendant Crete Carrier Corporation filed in the United States District Court for the Northern District of Texas, Dallas Division, its Notice of Removal of the above-styled and numbered cause. A copy of the Notice of Removal is attached hereto as Exhibit "A."

NAMAN, HOWELL, SMITH & LEE, PLLC

400 Austin Avenue, 8<sup>th</sup> Floor  
P. O. Box 1470  
Waco, Texas 76703-1470  
254.755.4100 / Facsimile 254.754.6331

BY:

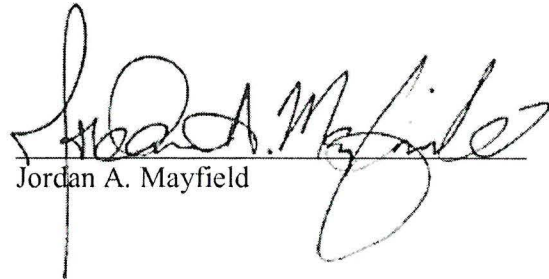
  
JORDAN A. MAYFIELD  
State Bar No. 24037051  
[mayfield@namanhowell.com](mailto:mayfield@namanhowell.com)  
ROBERT LITTLE  
State Bar No. 24050940  
[little@namanhowell.com](mailto:little@namanhowell.com)  
(254) 755-4100  
FAX: (254) 754-6331

ATTORNEYS FOR DEFENDANT  
CRETE CARRIER CORPORATION

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the forgoing has been served on counsel of record, on the 12<sup>th</sup> day of March, 2018, as follows:

Brandon Ramsey  
LONCAR & ASSOCIATES  
223 East Charnwood  
Tyler, Texas 75701  
[bramsey@brianloncar.com](mailto:bramsey@brianloncar.com)



Jordan A. Mayfield

# EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**BENJAMIN TEMPLE**

*Plaintiff,*

**VS.**

**WARREN D. CLARK AND  
CRETE CARRIER CORPORATION**

*Defendants.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**Case No. 3:18-cv-566**

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---

**DEFENDANT'S NOTICE OF REMOVAL**

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TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Crete Carrier Corporation, Defendant herein, and files this Notice of Removal, removing this case to federal court under 28 U.S.C. §§ 1332, 1441 and 1446, and in support thereof, would show as follows:

**A. Introduction**

1. This lawsuit arises out of an alleged motor vehicle accident. The accident is alleged to have occurred in Kaufman County, Texas. (Plaintiff's Original Petition, p. 2, §IV.)
2. Plaintiff is a citizens of the State of Texas.
3. Plaintiff has named trucking company, Crete Carrier as Defendant, which is not a Texas citizen. Plaintiff has named driver, Warren D. Clark as a Defendant, who is also not a Texas citizen.
4. Plaintiff's pleadings state that he seeks relief of \$1,000,000.00 in this case. (Plaintiff's Original Petition, p. 5, §IV.)



5. Thus, there is diversity of citizenship among the parties and Defendant Crete Carrier, as the only Defendant to have been named and served, removes this case to federal court under 28 U.S.C. §§ 1332, 1441 and 1446.

**B. Basis for Removal**

6. Removal is proper under 28 U.S.C. §§ 1332, 1441 and 1446 because there is complete diversity of citizenship and the amount in controversy exceeds \$75,000 and this removal is filed within 30 days after the service on Defendant.

7. There is complete diversity of citizenship as follows:

(a) Plaintiff is a Texas citizen. *See Freeman v. Northwest Acceptance Corp.*, 754 F.2d 553, 555-56 (5th Cir. 1985).

(b) Defendant Crete Carrier Corporation is corporation organized and existing under the laws of the State of Nebraska, with its principal place of business in Lincoln, Nebraska. Thus, it is a citizen of Nebraska and diverse from Plaintiff. *See* 28 U.S.C. § 1332(a).

8. Plaintiff's pleadings state that he seeks relief in an amount of \$1,000,000. (Plaintiff's Original Petition, p. p. 5, §IV.) *See S.W.S. Erectors Inc. v. Infax Inc.*, 72 F.3d 489, 492 (5th Cir. 1996) (removing defendant can rely on plaintiff's statement of amount in controversy); *see also* 28 U.S.C. § 1446(c).

9. Defendant Crete Carrier's notice of removal is timely, as it is filed within 30 days of its being served with a pleading stating a removable case. *Alim v. KBR, Inc.*, No. 13-11094, 2014 U.S. App. LEXIS 10508, at \*4 (5th Cir. 2014) (unpub.) (30-day deadline for removal runs from the defendant's receipt of a pleading setting forth a removable claim).

10. Defendant Crete Carrier Corporation is the only named defendant that has been

served as of the date of this removal, making the consent of the other defendants to this removal unnecessary. *See* 28 U.S.C. § 1446(b)(2) (requiring consent of all defendants joined and served).

11. Copies of all pleadings, process, orders, and other filings in the state-court suit will be submitted once received to support this notice as required by 28 U.S.C. §1446(a).

12. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending, the 422<sup>nd</sup> Judicial District, is located in this district.

13. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

#### **C. Jury Demand**

14. Plaintiff has not demanded a jury trial.

#### **D. Conclusion**

15. There is complete diversity of citizenship and the amount in controversy exceeds \$75,000. Thus, there is diversity jurisdiction over this matter and removal is proper as set forth herein.

NAMAN, HOWELL, SMITH & LEE, PLLC

400 Austin Avenue, 8<sup>th</sup> Floor  
P. O. Box 1470  
Waco, Texas 76703-1470  
254.755.4100 / Facsimile 254.754.6331

BY: /s/Jordan A. Mayfield  
JORDAN A. MAYFIELD  
State Bar No. 24037051  
[mayfield@namanhowell.com](mailto:mayfield@namanhowell.com)  
ROBERT LITTLE  
State Bar No. 24050940  
[little@namanhowell.com](mailto:little@namanhowell.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the forgoing has been served on counsel of record, on the 12<sup>th</sup> day of March, 2018, as follows:

Brandon Ramsey  
LONCAR & ASSOCIATES  
223 East Charnwood  
Tyler, Texas 75701  
[bramsey@brianloncar.com](mailto:bramsey@brianloncar.com)

/s/Jordan A. Mayfield



Case 3:18-cv-00566-N Document 1-1 Filed 03/12/18 Page 1 of 1 PageID 5

MAG. JUDGE



### Supplemental Civil Cover Sheet for Cases Removed From State Court

**This form must be attached to the Civil Cover Sheet at the time the case is filed in the U.S. District Clerk's Office. Additional sheets may be used as necessary.**

**1. State Court Information:**

Please identify the court from which the case is being removed and specify the number assigned to the case in that court.

<u>Court</u>	<u>Case Number</u>
422nd Judicial District Court of Kaufman County, Texas	Cause No. 99184-422

**2. Style of the Case:**

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code).

<u>Party and Party Type</u>	<u>Attorney(s)</u>
Benjamin Temple - Plaintiff	Brandon Ramsey, Bar No 24027761, Loncar & Associates
	223 East Charnwood, Tyler, TX 78701, 903-509-2255
Crete Carrier Corporation - Defendant	Jordan A. Mayfield, Bar No. 24037051, NHSL, LLC
	P.O. Box 1470, Waco, TX 76703, 254-755-4100

**3. Jury Demand:**

Was a Jury Demand made in State Court?                      Yes                      No

If "Yes," by which party and on what date?

\_\_\_\_\_  
Party

\_\_\_\_\_  
Date

**4. Answer:**

Was an Answer made in State Court? Yes No

If "Yes," by which party and on what date?

Crete Carrier Corporation

Party

03/12/2018

Date

**5. Unserved Parties:**

The following parties have not been served at the time this case was removed:

<u>Party</u>	<u>Reason(s) for No Service</u>
Warren D. Clark - Defendant	N/A

**6. Nonsuited, Dismissed or Terminated Parties:**

Please indicate any changes from the style on the State Court papers and the reason for that change:

<u>Party</u>	<u>Reason</u>

**7. Claims of the Parties:**

The filing party submits the following summary of the remaining claims of each party in this litigation:

<u>Party</u>	<u>Claim(s)</u>
Plaintiff, Benjamin Temple	Negligence

**Rhonda Hughey**  
District Clerk



Kaufman County

March 12, 2018

County Courthouse  
100 W. Mulberry St.  
Kaufman, Texas 75142  
**972-932-0279**

**NOTICE OF COURT ORDER**  
**TRCP 306(a) & 239 (a)**  
**Family Code 6.710**

**Brandon Ramsey**  
**223 East Charnwood**  
**Tyler TX 75701**

Re: **Case No. 99184-422**  
**Benjamin Temple Vs. Warren Clark, Crete Carrier Corporation**

Dear Sir/Madam:

YOU ARE HEREBY NOTIFIED that the document described below was filed with the Clerk of the District Court at 100 West Mulberry St., Kaufman County Courthouse in Kaufman, Texas and entered into the minutes of the court.

Document: **DEFENDANT'S NOTICE OF FILING NOTICE TO REMOVE CASE**  
Date Signed: **March 12, 2018**  
Date Filed: **March 12, 2018**

This order may be subject to appeal. A copy of the order may be obtained from the clerk's office at the address above. Fees for copies are \$1.00 per page for certified copies.

You should consult your attorney if you have any questions concerning the above document or this notice.

Sincerely yours,

  
Rhonda Hughey  
District Clerk

**Rhonda Hughey**  
District Clerk



Kaufman County

March 12, 2018

County Courthouse  
100 W. Mulberry St.  
Kaufman, Texas 75142  
**972-932-0279**

**NOTICE OF COURT ORDER**  
**TRCP 306(a) & 239 (a)**  
**Family Code 6.710**

**Jordan A. Mayfield**  
**400 Austin Avenue 8th Floor**  
**PO Box 1470**  
**Waco TX 76703-1470**

Re: **Case No. 99184-422**  
**Benjamin Temple Vs. Warren Clark, Crete Carrier Corporation**

Dear Sir/Madam:

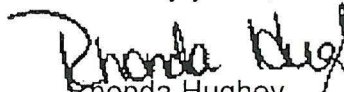
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Sincerely yours,

  
Rhonda Hughey  
District Clerk